

PRACTICE XVI. ALLOWANCE OF PROBATE ACCOUNTS PURSUANT TO RULE 72 OF THE MASSACHUSETTS RULES OF CIVIL PROCEDURE

~~A. Time for Filing Appearance.~~ ~~An appearance against an account is timely if it is filed before closing time on the return day. An uncontested account which is in order for allowance may be allowed no sooner than the day following the return day.~~

~~B. Required Tax Receipts or Waivers.~~ ~~The final account of an executor, administrator, or trustee of an estate which is subject to the Massachusetts inheritance tax, or the final account of an executor or administrator of an estate which is subject to the Massachusetts estate tax, shall not be allowed unless there has been filed a waiver (now known as a "certificate of no tax due") or a receipted bill (now known as a "closing letter") for the applicable Massachusetts death tax. Receipts or waivers for other taxes (e.g., Federal estate tax, Federal income tax, Massachusetts income tax) are not required to be filed.~~

~~C. Issuance of Citation.~~ ~~An account is deemed to be "filed for allowance" within the meaning of Rule 72(b)(1) when it has been filed and a citation has been requested. No citation shall be issued on an account unless requested by the accountant or by some interested party or by the court.~~

~~D. Return Days.~~ ~~Return days on probate accounts shall be determined in accordance with Probate Court Rule 6.~~

~~E. Allowance of Uncontested Accounts.~~ ~~An account is regarded as uncontested and may be allowed by the Court forthwith in any of the following instances:~~

~~—(1) All interested parties have assented or waived notice in writing.~~

~~—(2) A citation has been served as ordered, no appearance has been filed, and the guardian ad litem (if any) has assented.~~

~~—(3) The account is otherwise in order for allowance and an appearance (or appearance and objection) previously filed has been withdrawn or stricken.~~

~~F. Appearance and Objection.~~ ~~No objection shall be accepted for filing unless there is an appearance of the objecting party on file. Late filing of an appearance or an objection requires leave of Court.~~

~~G. Contested Accounts.~~ ~~An account is deemed contested only when an interested party has filed both an appearance and an objection. During the period between the filing of an appearance and the filing of an objection, the account is not regarded as contested so that the matter is not yet ripe for such steps as pre-trial conference, appointment of master, motion for summary judgment, or marking for trial. An otherwise uncontested account on which a guardian ad litem has been appointed will be regarded as contested only if and when the guardian ad litem files a report containing an objection.~~

~~H. Guardian Ad Litem's Report.~~ ~~If the guardian ad litem's report is not filed within ninety days after the return day (or within such further time as the Court may order), the attorney for the fiduciary may bring this fact to the Court's attention for appropriate action. However, the guardian ad litem's report may be filed late without leave of Court provided that no order inconsistent therewith has previously been entered by the Court.~~

Amended effective July 1, 1977; January 1, 1988.